

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of)	
)	
Structure and Practices of the)	CG Docket No. 10-51
Video Relay Service Program)	
)	
Telecommunications Relay Services and)	CG Docket No. 03-123
Speech-to-Speech Services for Individuals)	
With Hearing and Speech Disabilities)	
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REPLY COMMENTS OF CSDVRS, LLC

The Federal Communications Commission’s (“FCC” or “Commission”) Report and Order and Further Notice of Proposed Rulemaking¹ reflects its expanding efforts to institute structural components of the Video Relay Service (“VRS”) program for the long-term, now that much of the necessary reforms to preserve the program’s integrity have been put into place. Going forward, the Commission must ensure that the VRS structural components – either existing, implementing or proposed – support: 1) advancing functional equivalence for eligible users; 2) sustaining choice, competition, quality and innovation of services and products; and 3) improving the efficiency of the VRS program and provider operations. CSDVRS, LLC, d/b/a ZVRS, (“ZVRS”) is more convinced than ever that there is a need to develop a fuller record for certain FNPRM proposals while immediately acting to implement changes which would increase the availability of VRS and reduce provider costs in a challenging rate regime. Accordingly, the FCC should promptly restore a feasible speed of answer (“SOA”) standard, allow for

¹ *Structure and Practices of the Video Relay Service Program; Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, Report and Order and Further Notice of Proposed Rulemaking, CG Docket Nos. 10-51 and 03-123; FCC 13-82, 78 FR 40407, (“FCC Order” or “FNPRM”) (Released: June 10, 2013).

remote interpreting, codify the provision of iTRS numbers to videophones (“VP”) installed by entities in public spaces, and mandate the interoperability of VP functions and the portability of address book and speed dial features.

ZVRS commented that the new rate structure and programs have caused unpredictability in how its business or industry will be affected,² a point other commenters have agreed with.³ Before the Commission considers a radical shift to include competitive bidding in VRS, it must first address that the new rates are only marginally sustainable for the short-term and providers cannot sustain its level of service over the long-term due to the decreased and inadequate rate set for that time.⁴ Even prior to the multitude of challenges ZVRS described competitive bidding would cause quality of service and sustainable pricing,⁵ the new rate structure has caused an absolute disincentive for any new outside investment in VRS providers.⁶ If a marginal or inadequate rate bars investment, the only way for providers to compete is by cutting the costs of a labor intensive service (i.e., video interpreting) which will adversely affect the quality of the service,⁷ or unacceptably turn to revenue generating schemes. We have previously stated and agree with Sorenson that the FCC Order’s National Science

² Comments of CSDVRS LLC, CG Docket Nos. 10-51 and 03-123, pgs. 8-10 (“ZVRS Comments”) (August 19, 2013).

³ See e.g. Comments of Purple Communications, Inc. (“Purple”), CG Docket Nos. 10-51 and 03-123, pg. 9 (“Purple Comments”) (August 19, 2013); Comments of Telecommunications for the Deaf and Hard of Hearing, National Association for the Deaf, Association of Late-Deafened Adults, Inc., Deaf and Hard of Hearing Consumer Advocacy Network, American Association of the Deaf-Blind, California Coalition of Agencies Serving Deaf and Hard of Hearing, Inc., Speech Communications Assistance by Telephone, Inc., and Rehabilitation Engineering Research Center on Telecommunication Access, CG Docket Nos. 10-51 and 03-123, pg. 3 (“Consumer Groups Comments”) (August 19, 2013).

⁴ See ZVRS Ex Parte, pg. 1. See also Comments of Sorenson Communications, Inc., and Caption Call (“Sorenson”), CG Docket Nos. 10-51 and 03-123, pgs. 15-17 (“Sorenson Comments”) (August 19, 2013).

⁵ ZVRS Comments, section II. Upon reviewing Sorenson and Purple’s comments, ZVRS finds its August 19, 2013 comments to thoroughly refute for the record their arguments in favor of auctions and that we need not exhaustively repeat its points in this filing. Additionally, we agree with the rationale provided in the Consumer Groups comments in opposing the FCC FNPRM auction proposals.

⁶ See ZVRS Ex Parte, pg. 1. See also Sorenson Comments, pgs. 1-2.

⁷ ZVRS Comments, pgs. 19-20.

Foundation (“NSF”) initiative is an inadequate substitute for funding VRS providers’ R&D costs and the tremendous benefits that investment in VRS providers has brought consumers in terms of an innovative array of VP options.⁸

The Commission is urged to heed the call for a sustainable rate rather than repeat for VRS the serious issue of an inadequate rate causing IP relay providers to dwindle down to only two, in contravention to the Americans with Disabilities Act (“ADA”) mandate that relay service is “available, to the extent possible and in the most efficient manner.”⁹ The Commission must maintain a tiered weighted average rate that sustains choice and competition by utilizing a return of investment (“ROI”) methodology which specifically considers labor costs and the true capital required to provide VRS.¹⁰ ZVRS has extensively explained that providing VRS involves significant effort and resources beyond the cost of video interpreters (“VI”) and the technology to make it available to consumers - which includes among other things platform engineering and support, CPE engineering, finance and legal support, customer and installation support, outreach, and human resources.¹¹ It is not uncommon, for instance, for ZVRS to spend a half hour helping a customer enable a VRS application on his or her iPad or tablet, assistance which is above and beyond what a neutral VRS platform or stand-alone interpreter provider would offer.

Once the rates are remedied to fully support the breadth of VRS provider

⁸ FCC Order, fn. 58 citing CSDVRS’ Apr. 11, 2013 *Ex Parte*; Sorenson Comments, pg. 29-30. *See also* Consumer Groups Comments, pgs 11-12.

⁹ 47 U.S.C. § 225(b)(1).

¹⁰ Comments of CSDVRS, LLC., CG Docket Nos. 10-51 and 03-123, pgs. 2-6 (“ZVRS May 31, 2013 Comments”) (May 31, 2012); Comments of CSDVRS, LLC., CG Docket Nos. 10-51 and 03-123, section I (November 14, 2012). *See also* Comments of Sorenson, pg. 59.

¹¹ *See, e.g. Ex Parte* of CSDVRS, LLC, CG Docket Nos. 10-51 (PowerPoint presentations detailing corporate costs) (September 2, 2011, February 1, 2011 and April 29, 2010).

operations with a reasonable return on investment¹² to sustain choice, competition, quality and innovation, the Commission must engage in a fuller examination of alternative rate methodologies (including competitive bidding) than strictly through a notice and comment rulemaking process to ensure that it has a sufficient record and public discourse before making any fundamental long-term structural changes to VRS.¹³ As part of the deeper effort, ZVRS recommends that the FCC request a reconstituted TRS Fund Council to provide functional equivalency metrics and approaches to closing the equivalency gaps for VRS users, commission a third-party evaluative study with recommendations about rates which achieve functional equivalency objectives, consult with an industry workgroup, develop a comprehensive roadmap and collect public feedback through public forums and workshops.¹⁴ Continuing strictly with a notice and comment rulemaking process will not only bring inadequate information and insufficient expertise to bear on policymaking, it will continue the growing divide between the Commission and relay stakeholders in that policymaking is occurring about civil rights access to telecommunications independent of meaningful public discourse and opportunity for consensus building. Without the necessary discourse, the Commission is risking making critical policy decisions for us without us.

The new SOA standard is an especially challenging example of an insufficient rulemaking process; the reason the Commission received “few” comments¹⁵ was that the SOA was discussed in the *2011 VRS Reform FNPRM* in the context of the discarded “per

¹² See ZVRS May 31, 2013 Comments, pgs. 5-6 (“the Rate of Return be calculated post real tax rate utilizing the same three components for VRS providers that was derived for Local Exchange Carriers (“LEC”), the weighted average of return on debt, the cost of preferred stock and the cost of equity.”).

¹³ See ZVRS Comments, pgs. 52-53.

¹⁴ Id. See also Consumer Groups Comments, pgs. 19-20.

¹⁵ FCC Order, fn. 298.

user” compensation proposal and whether the SOA needed to be adjusted if the dial around requirement was eliminated to prevent providers from fostering lengthy wait times to discourage per user subscribed customers from using VRS.¹⁶ Providers have uniformly responded that the new SOA standard poses considerable problems for them to achieve and will raise the cost of providing the service to an unsupported level.¹⁷ The Commission must refocus its inquiry from lowering the SOA even further to remedying the standard to a cost and service effective level. To do otherwise will cause providers perverse incentives to reduce labor costs once it becomes apparent that there is more consumer demand than projected on a certain day for which there will be no reimbursement. ZVRS has proposed restoring the measurement of SOA to a monthly basis.¹⁸

Another critical cost effective action the Commission must take now is to restore the use of remote interpreting in secure environments with the robust protections that ZVRS outlined in its comments.¹⁹ Remote interpreting will help providers meet the strain of the rate reduction as well as help ensure the safety of the interpreters. Allowing VIs to work at home fits in with several federal initiatives which are targeted at producing a green and sustainable environment. Many interpreters are part-time workers and stay at home moms. Many also provide in-person community interpreting as well as VRS interpreting. There is a severe challenge with the availability of interpreters today. Remote interpreting will allow providers to recruit excellent quality interpreters whom could otherwise not work in VRS. Remote interpreting should have the same

¹⁶ *2011 VRS Reform FNPRM*, 26 FCC Rcd at 17405, ¶ 77.

¹⁷ Sorenson Comments, pgs. 47-53; Purple Comments, pgs. 20-21; Comments of Convo Communications LLC, CG Docket Nos. 10-51 and 03-123, pgs. 2-3 (August 19, 2013).

¹⁸ *ZVRS Ex Parte*, pg. 2.

¹⁹ *ZVRS Comments*, section IV.

requirements as work in call centers for security and monitoring. A fully compliant and secure remote set up has been effectively demonstrated by ZVRS in its Secure Virtual Call Centers (“SVCC”) prior to their termination as a result of the FCC prohibition. The elimination of the opportunity to interpret remotely was a huge step backward in today’s work world. In other industries, the ability to work at home has resulted in a return of call centers to the US markets and given jobs to people who otherwise would not have the ability to work. VRS is a classic call center application and the service would be enhanced dramatically if the remote interpreting option was reinstated with no time restrictions. We recommend that the FCC require any provider which desires to conduct remote interpreting first submit to the Commission for approval a plan for remote interpreting that would address requirements for security, privacy and transfer of calls. The FCC after review on an individual provider basis their proposed plan for remote interpreting could grant permission as an option to the provider certification, i.e., a provider would be certified for VRS, and if approved, would also be certified for remote interpreting.

ZVRS worked with stakeholders on the issue and agrees with the Registry of Interpreters of the Deaf (“RID”) and providers that remote interpreting will ensure greater availability of VRS, drive down the costs of providing VRS and support the safety of interpreters during atypical work conditions.²⁰ ZVRS is certain that the concerns about confidentiality and fraud will be fully addressed by the inclusion in the rule the operating

²⁰ Comments of the Registry of Interpreters for the Deaf, CG Docket Nos. 10-51 and 03-123, pg. 21 (August 19, 2013); Purple Comments, pg. 24; Comments of Hancock, Jahn, Lee & Puckett, LLC d/b/a Communication Access Ability Group (“CAAG”), CG Docket Nos. 10-51 and 03-123, pg. 10 (August 19, 2013); Comments of ASL Services Holdings LLC, CG Docket Nos. 10-51 and 03-123, pgs. 50-52 (August 19, 2013).

and monitoring requirements that ZVRS established for its SVCCs.²¹ Such mandatory standards will not only require to providers to create remote interpreting spaces virtually identical to its call centers, but also promote interpreter safety, availability and cost effective objectives. In furtherance of those objectives, providers should have the ability to flexibly schedule remote interpreters beyond overnight shifts, especially for unforeseeable circumstances. This will achieve the right balance in that remote interpreting in secure settings will make VRS more available for consumers (especially under the new SOA standard), while decreasing the costs of providing VRS under a diminishing rate structure.

The Commission continues to receive broad consensus about provisioning hearing individuals with iTRS numbers.²² ZVRS shares the view that hearing individuals must be charged, at minimum, the costs of providing that service.²³ The Commission should go further to ensure clarity, consistency and integrity in the use of public VPs and codify as a TRS rule providers provisioning iTRS numbers to VPs installed in public spaces to ensure unfettered access in a variety of environments including confined circumstances such as hospitals. We find that there is lack of accessible public phones available to deaf and hard of hearing users in most public facilities. There are no VPs or outdated TTY devices in the vast majority of public places such as government buildings, libraries, airports, and educational institutions. Currently, public videophones are assigned by VRS providers to deaf persons who may be an employee, volunteer or a client associated with

²¹ ZVRS Comments, pgs. 31-33.

²² Sorenson Comments, pgs. 33-34; Purple Comments, pgs. 12-14; Consumer Group Comments, pgs. 14-16.

²³ ZVRS Comments, pg 38.

the facility. It can be problematic if there is no deaf individual associated with the facility.

The Commission should allow VRS providers the ability to provision at no cost iTRS numbers to VPs installed at public facilities. The Commission should require that VRS providers report to FCC all public videophones assigned with an iTRS number. The VI would ensure that the caller is an eligible user under the Commission's TRS rules by being trained to only allow VRS use by individuals who are telecommunicating in sign language. VRS providers must immediately terminate and report any inappropriate calls. Consumers using public VPs should first provide their name (or unique identifier when the TRS-URD database is operating) or personal iTRS number to the VI for verification using the iTRS database of the caller's eligibility to use VRS or by entering a PIN prior to dialing the called party.²⁴ The Commission should not impose restrictions for point to point VP calls. VRS interoperability standards must apply to include public videophones with an iTRS number.

However, the forward progress of the VRS program would be lost if the Commission continues to fund the locked-in and non-interoperable VRS market caused by Sorenson's proprietary VPs. The use of provider VPs for VRS should not be compensated by public funds unless they are off-the-shelf or made available on the open market. It is a grave concern that there has been no real progress in addressing interoperability issues since the FCC Order. Interoperability must include all essential VP features such as address book, flasher control, caller ID, direct dialing, video mail etc.²⁵

The Commission is well aware of the desire of consumers for the portability of

²⁴ Id., pgs. 38-39.

²⁵ The Commission must mandate that interoperability with the VRS access technology reference platform is not limited to call functions, but also includes essential VP features.

their address books. The challenge again is a deliberate choice by certain providers not to allow the portability of their address books and must be cured by order of the FCC. Accomplishing portability is extremely simple. We submit that this function is already feasible for all providers which currently feature address books and the ability of providers to support this portability involves minimal work and is not a technical challenge to accomplish. It has simply been a choice of providers to not to share the users address book to impede consumer choice of VRS providers. This barrier to consumer choice is inconsistent with the spirit of the ADA and its mandate of functional equivalency.

VRS providers must provide portability of the address book and speed dial list features. The portability of such features is critical to effective competition. It will be one step toward resolving the problem of users being locked in to their existing provider because of VRS providers continually supporting proprietary methods when standards already exist for these features.

Address book portability allows a user to seamlessly port between providers just as an individual can port between mobile carriers' devices today. The address book will be shared from the VRS provider's server rather than locally. This will allow for:

- Seamless import and export when the user switches providers
- Access to the address book

When a user ports from one default provider to another, the current default provider must provide the user's address book to the new default provider. A user porting to a new VRS provider must have no loss of contacts when porting to the new provider. The address book must be securely transmitted. Compliance with the address book

portability requirements must be a prerequisite for compensation from the Fund. ZVRS requests that the Commission also order the portability of address books and require providers to comply within 90 days.

VRS interoperability must include VRS Providers supporting a standard method for video mail for both VRS calls and point to point calls. This will be another critical step toward resolving the problem of users being locked in to their existing provider because of proprietary VRS provider technology. The ability to support video mail can be easily engineered by any company which can meet the current requirements of VRS, including interoperability and the ability to originate and answer video calls from all providers. The majority of providers today support video mail however certain providers choose to support video mail only on their own devices. A user must have the ability to leave a video mail across all VRS access technology. A video mail call must be handled the same way as a point-to-point call. That is, if one VRS provider's VP (video access technology) calls another VRS provider's VP which is not able to answer, the call must be answered by the VRS provider's video mail server. In the call processing, the caller's VRS provider network must view the call as being answered, it cannot be re-directed to another server node. Therefore, video mail call signaling must be handled inside the VRS provider's network so that video mail call is interoperable across VRS providers. There must not be any extra signaling involved to support a video mail call other than simple point-to-point call signaling.

We ask the FCC to order providers to support video mail for all calls processed including VRS and point to point calls and not to discriminate on calls originating from devices and software provided by other VRS providers. Compliance with the video mail

interoperability requirements described above must become a prerequisite for compensation from the Fund. We submit that this engineering could be accomplished in very short order, however we propose the FCC allow providers 90 days to comply.

Both of ZVRS' requests for Commission mandates of interoperability of video mail and the portability of address books can be likened to the operational mode in telephony for hearing consumers, most notably their wireless phone services.

Additionally, the Commission must resolve the locked-in market by creating a default provider selection as was ordered several years ago but the rule currently waived regarding the portability of VPs. This time the Commission should augment that Order by requiring VRS providers to sustain all features and functions of VPs even when the number associated with the VP is ported or the call routed to a different provider. This approach will unlock the VRS market by removing control of consumers through proprietary VPs, save millions of dollars, drive quality interpreting and create a dramatically more competitive VRS market while preserving consumer choices.

The Commission should take immediate steps to improve the structure, efficiency and quality of the VRS program by an adequate tiered weighted average rate with a VRS appropriate ROI, reinstate the calculation of SOA on a monthly basis, allow the flexible use of remote interpreting, codify the use of iTRS numbers for VPs in public spaces and mandate the interoperability and portability of VP features. Over the longer term, the Commission should engage for new VRS components such as competitive pricing public discourse approaches which will allow for more informed and consensus built policy making. ZVRS has urged the Commission to pause with any competitive bidding initiatives until the new FCC Order programs are implemented and their effect on VRS

are apparent and can be concretely assessed. ZVRS opposes any premature introduction of competitive bidding because of the adverse impact on the functional equivalency mandate and on non-dominant providers such as ZVRS' ability to compete and remain the choice consumers rely on us for – high quality interpreting and innovative products.

Respectfully Submitted,

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